

AMENDED IN ASSEMBLY APRIL 13, 2005

AMENDED IN ASSEMBLY MARCH 29, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

**No. 21**

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**Introduced by Assembly Member Levine**  
**(Coauthors: Assembly Members *Berg, Chavez, Cohn, De La***  
***Torre, Evans, Goldberg, Jones, Koretz, Laird, Lieber,***  
***Montanez, Nava, and Ruskin)***

December 6, 2004

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An act to add Section 4069 to the Business and Professions Code, relating to pharmacy.

### LEGISLATIVE COUNSEL'S DIGEST

AB 21, as amended, Levine. Pharmacists: ~~prescriptions~~ *dispensing requirements*.

Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacists by the California State Board of Pharmacy and makes a violation of that law a crime. Under existing law, a prescription may be lawfully dispensed only by a pharmacist, unless otherwise specified by the Pharmacy Law.

This bill would require a pharmacist to dispense a prescription except in specified circumstances. The bill would allow a pharmacist to ~~decline to dispense a prescription~~ on ethical, moral, or religious grounds *to dispense a drug pursuant to a lawful request* only if he or she satisfies certain conditions. The bill would ~~require revocation of the pharmacist's license for~~ *make* a violation of its provisions *unprofessional conduct, subject to disciplinary action by the board*.

Because the bill would specify an additional requirement under the Pharmacy Law, a violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 4069 is added to the Business and  
2 Professions Code, to read:

3 4069. (a) Notwithstanding any other provision of law, a  
4 pharmacist shall dispense a lawful prescription unless one of the  
5 following circumstances exists:

6 (1) The pharmacist determines, based on his or her  
7 professional training and judgment, that dispensing the  
8 prescription is contrary to law or, after consulting with the  
9 patient's prescriber, that it is contraindicated for the patient.

10 (2) The pharmacy does not have the prescribed trade or brand  
11 name drug in stock. The pharmacist shall offer the patient  
12 another drug product, if available, with the same active chemical  
13 ingredients of the same strength, quantity, and dosage form and  
14 of the same generic drug name, as determined by the United  
15 States Adopted Names and accepted by the federal Food and  
16 Drug Administration, as the prescribed drug product and follow  
17 the procedure or protocol described in Section 4073.

18 (3) (A) The pharmacist elects to refuse on ethical, moral, or  
19 religious grounds to dispense a drug pursuant to ~~an order or~~  
20 ~~prescription~~ a lawful request. A pharmacist may decline to  
21 dispense a drug on these grounds only after notifying his or her  
22 employer in writing ~~of the drug or class of drugs to which he or~~  
23 ~~she objects. The~~ of his or her objections. The pharmacist shall  
24 provide this notification upon acceptance of employment and  
25 immediately after any change to that decision.

1 ~~(B) A pharmacist electing not to dispense a drug as described~~  
2 ~~in subparagraph (A) shall take either of the following actions:~~

3 ~~(i) Upon the patient's request, return the prescription to the~~  
4 ~~patient and refer him or her to a pharmacy that has the drug in~~  
5 ~~stock.~~

6 ~~(ii) Verbally verify, while the patient is waiting for the~~  
7 ~~prescription to be dispensed, that another pharmacy has the drug~~  
8 ~~in stock and will dispense it to the patient, promptly transfer the~~  
9 ~~prescription to that pharmacy, and immediately provide this~~  
10 ~~information to the patient.~~

11 ~~(b) The board shall revoke the license of a pharmacist who~~  
12 ~~violates this section.~~

13 ~~(B) An employer shall, upon receipt of the notification~~  
14 ~~described in subparagraph (A), establish a policy and protocol to~~  
15 ~~accommodate the patient's needs for the drug.~~

16 ~~(b) An employer shall not withdraw an offer of employment or~~  
17 ~~terminate employment based on the notification or change in the~~  
18 ~~notification, as described in subparagraph (A) of paragraph (3)~~  
19 ~~of subdivision (a).~~

20 ~~(c) A violation of this section by a pharmacist constitutes~~  
21 ~~unprofessional conduct for the purposes of Section 4301, subject~~  
22 ~~to disciplinary action by the board.~~

23 SEC. 2. No reimbursement is required by this act pursuant to  
24 Section 6 of Article XIII B of the California Constitution because  
25 the only costs that may be incurred by a local agency or school  
26 district will be incurred because this act creates a new crime or  
27 infraction, eliminates a crime or infraction, or changes the  
28 penalty for a crime or infraction, within the meaning of Section  
29 17556 of the Government Code, or changes the definition of a  
30 crime within the meaning of Section 6 of Article XIII B of the  
31 California Constitution.